

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED FIRST LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 35**  
 FINAL READING  
 (THIRD)

Introduced by Ashford, 20.

Read first time January 8, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to legal process; to amend sections 21-2601,  
 2 23-1205, 24-301.02, 24-517, 25-505.01, 25-506.01,  
 3 25-507.01, 25-1144, 25-1628, 25-1708, 25-1801, 25-2405,  
 4 25-2721, 25-3007, 25-3008, 27-1201, 30-2302, 30-2485,  
 5 30-2487, 30-24,125, 30-24,129, 33-107.03, 33-117, 34-301,  
 6 43-103, 43-1314.02, 43-3001, 43-3713, 81-1429, and  
 7 84-917, Reissue Revised Statutes of Nebraska; to  
 8 provide restrictions regarding judgments against limited  
 9 liability companies; to change provisions relating to  
 10 appointment of acting county attorneys and the number of  
 11 district court judges; to change jurisdiction provisions

1            regarding county and district courts; to change  
2            provisions relating to service of process, applications  
3            for new trial, juror lists, recovery of costs of actions,  
4            interpreters for official proceedings, execution on  
5            judgments, civil legal services for low-income persons,  
6            unanticipated outcomes of medical care, decedents'  
7            estates, corners and boundaries of real estate, petitions  
8            for adoption, foster care information forms, confidential  
9            information concerning children, court appointed special  
10           advocate volunteers, and judicial review under the  
11           Administrative Procedure Act; to change court automation,  
12           sheriffs', and Law Enforcement Improvement Fund fees;  
13           to harmonize provisions; to provide operative dates;  
14           to repeal the original sections; and to declare an  
15           emergency.

16    Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) On application to a court of competent  
2 jurisdiction by any judgment creditor of a member or transferee,  
3 the court may charge the transferable interest of the judgment  
4 debtor in the limited liability company with payment of the  
5 unsatisfied amount of the judgment with interest. To the extent of  
6 the amounts so charged, the judgment creditor has only the rights  
7 of the transferee to receive any distribution to which the judgment  
8 debtor would otherwise have been entitled with respect to the  
9 interest of the judgment debtor in the limited liability company.

10           (2) A charging order entered pursuant to this section  
11 constitutes a lien on the judgment debtor's transferable interest  
12 in the limited liability company.

13           (3) This section does not deprive any member or  
14 transferee of the benefit of any exemption laws applicable to the  
15 member's or transferee's interest in the limited liability company.

16           (4) The entry of a charging order pursuant to this  
17 section is the exclusive remedy by which a judgment creditor of a  
18 member or transferee may satisfy a judgment out of the judgment  
19 debtor's interest in the limited liability company.

20           (5) No creditor of a member of a limited liability  
21 company shall have any right to obtain possession of, or otherwise  
22 exercise legal or equitable remedies with respect to, the property  
23 of the limited liability company.

24           (6) A third party shall not be liable to a judgment  
25 creditor for distributions made by such third party directly to the

1 judgment debtor that were made in good faith at the direction of  
2 the limited liability company.

3 (7) This section applies to all limited liability  
4 companies authorized under the Limited Liability Company Act.

5 Sec. 2. Section 21-2601, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 21-2601 Sections 21-2601 to 21-2653 and section 1 of  
8 this act shall be known and may be cited as the Limited Liability  
9 Company Act.

10 Sec. 3. Section 23-1205, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 23-1205 ~~In~~ Due to the absence, sickness, ~~or~~ disability,  
13 or conflict of interest of the county attorney and his or her  
14 deputies, or upon request of the county attorney for good cause,  
15 the ~~court~~ Supreme Court, the Court of Appeals, or any district  
16 court, separate juvenile court, or county court before which the  
17 cause may be heard may appoint an attorney to act as county  
18 attorney in any investigation, appearance, or trial, by an order  
19 ~~to be~~ entered upon the minutes of the court. Such attorney shall  
20 be allowed compensation for such services as the court ~~shall~~  
21 ~~determine,~~ determines, to be paid by order of the county treasurer,  
22 upon presenting to the county board the certificate of the judge  
23 before whom the cause was tried certifying to services rendered by  
24 such attorney and the amount of compensation.

25 Sec. 4. Section 24-301.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           24-301.02 The State of Nebraska shall be divided into the  
3 following twelve district court judicial districts:

4           District No. 1 shall contain the counties of Clay,  
5 Nuckolls, Saline, Jefferson, Gage, Thayer, Johnson, Pawnee, Nemaha,  
6 Fillmore, and Richardson;

7           District No. 2 shall contain the counties of Sarpy, Cass,  
8 and Otoe;

9           District No. 3 shall contain the county of Lancaster;

10           District No. 4 shall contain the county of Douglas;

11           District No. 5 shall contain the counties of Merrick,  
12 Platte, Colfax, Boone, Nance, Hamilton, Polk, York, Butler, Seward,  
13 and Saunders;

14           District No. 6 shall contain the counties of Dixon,  
15 Dakota, Cedar, Burt, Thurston, Dodge, and Washington;

16           District No. 7 shall contain the counties of Knox,  
17 Cuming, Antelope, Pierce, Wayne, Madison, and Stanton;

18           District No. 8 shall contain the counties of Cherry,  
19 Keya Paha, Brown, Rock, Blaine, Loup, Custer, Boyd, Holt, Garfield,  
20 Wheeler, Valley, Greeley, Sherman, and Howard;

21           District No. 9 shall contain the counties of Buffalo and  
22 Hall;

23           District No. 10 shall contain the counties of Adams,  
24 Phelps, Kearney, Harlan, Franklin, and Webster;

25           District No. 11 shall contain the counties of Hooker,

1 Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson,  
2 Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and  
3 Furnas; and

4 District No. 12 shall contain the counties of Sioux,  
5 Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner,  
6 Kimball, Cheyenne, Grant, and Deuel.

7 In the fourth district there shall be sixteen judges of  
8 the district court. In the third district, until June 30, 2011,  
9 there shall be seven judges of the district court and, beginning  
10 July 1, 2011, there shall be eight judges of the district court.

11 In the second, fifth, ninth, eleventh, and twelfth districts there  
12 shall be four judges of the district court. In the first and sixth  
13 districts there shall be three judges of the district court. In the  
14 seventh, eighth, and tenth districts there shall be two judges of  
15 the district court.

16 Sec. 5. Section 24-517, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 24-517 Each county court shall have the following  
19 jurisdiction:

20 (1) Exclusive original jurisdiction of all matters  
21 relating to decedents' estates, including the probate of wills and  
22 the construction thereof, except as provided in subsection (c) of  
23 section 30-2464 and section 30-2486;

24 (2) Exclusive original jurisdiction in all matters  
25 relating to the guardianship of a person, except if a separate

1 juvenile court already has jurisdiction over a child in need of  
2 a guardian, concurrent original jurisdiction with the separate  
3 juvenile court in such guardianship;

4 (3) Exclusive original jurisdiction of all matters  
5 relating to conservatorship of any person, including (a) original  
6 jurisdiction to consent to and authorize a voluntary selection,  
7 partition, and setoff of a ward's interest in real estate owned  
8 in common with others and to exercise any right of the ward in  
9 connection therewith which the ward could exercise if competent and  
10 (b) original jurisdiction to license the sale of such real estate  
11 for cash or on such terms of credit as shall seem best calculated  
12 to produce the highest price subject only to the requirements set  
13 forth in section 30-3201;

14 (4) Concurrent jurisdiction with the district court to  
15 involuntarily partition a ward's interest in real estate owned in  
16 common with others;

17 (5) Concurrent original jurisdiction with the district  
18 court in all civil actions of any type when the amount in  
19 controversy is forty-five thousand dollars or less through June 30,  
20 2005, and as set by the Supreme Court pursuant to subdivision (b)  
21 of this subdivision on and after July 1, 2005.

22 (a) When the pleadings or discovery proceedings in a  
23 civil action indicate that the amount in controversy is greater  
24 than the jurisdictional amount of subdivision (5) of this section,  
25 the county court shall, upon the request of any party, certify

1 the proceedings to the district court as provided in section  
2 25-2706. An award of the county court which is greater than the  
3 jurisdictional amount of subdivision (5) of this section is not  
4 void or unenforceable because it is greater than such amount,  
5 however, if an award of the county court is greater than the  
6 jurisdictional amount, the county court shall tax as additional  
7 costs the difference between the filing fee in district court and  
8 the filing fee in county court.

9 (b) The Supreme Court shall adjust the jurisdictional  
10 amount for the county court every fifth year commencing July  
11 1, 2005. The adjusted jurisdictional amount shall be equal to  
12 the then current jurisdictional amount adjusted by the average  
13 percentage change in the unadjusted Consumer Price Index for  
14 All Urban Consumers published by the Federal Bureau of Labor  
15 Statistics for the five-year period preceding the adjustment  
16 date. The jurisdictional amount shall be rounded to the nearest  
17 one-thousand-dollar amount;

18 (6) Concurrent original jurisdiction with the district  
19 court in any criminal matter classified as a misdemeanor or for  
20 any infraction. The district court shall have ~~exclusive~~ concurrent  
21 original jurisdiction in any criminal matter classified as a  
22 misdemeanor that arises from the same incident as a charged felony;

23 (7) Concurrent original jurisdiction with the district  
24 court in domestic relations matters as defined in section 25-2740  
25 and with the district court and separate juvenile court in

1 paternity or custody determinations as provided in section 25-2740;

2 (8) Concurrent original jurisdiction with the district  
3 court in matters arising under the Nebraska Uniform Trust Code;

4 (9) Exclusive original jurisdiction in any action based  
5 on violation of a city or village ordinance;

6 (10) Exclusive original jurisdiction in juvenile matters  
7 in counties which have not established separate juvenile courts;

8 (11) Exclusive original jurisdiction in matters of  
9 adoption, except if a separate juvenile court already has  
10 jurisdiction over the child to be adopted, concurrent original  
11 jurisdiction with the separate juvenile court; and

12 (12) All other jurisdiction heretofore provided and not  
13 specifically repealed by Laws 1972, Legislative Bill 1032, and such  
14 other jurisdiction as hereafter provided by law.

15 Sec. 6. Section 25-505.01, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 25-505.01 (1) Unless otherwise limited by statute or by  
18 the court, a plaintiff may elect to have service made by any of the  
19 following methods:

20 (a) Personal service which shall be made by leaving the  
21 summons with the individual to be served;

22 (b) Residence service which shall be made by leaving the  
23 summons at the usual place of residence of the individual to be  
24 served, with some person of suitable age and discretion residing  
25 therein; ~~or~~

1 (c) Certified mail service which shall be made by (i)  
2 within ten days of issuance, sending the summons to the defendant  
3 by certified mail with a return receipt requested showing to whom  
4 and where delivered and the date of delivery, and (ii) filing with  
5 the court proof of service with the signed receipt attached; or-

6 (d) By depositing with a designated delivery service  
7 authorized pursuant to 26 U.S.C. 7502(f)(2) a copy of the summons  
8 and complaint, addressed to the party to be served, delivering to  
9 the addressee, and obtaining a delivery receipt. As used in this  
10 subdivision, delivery receipt includes an electronic or facsimile  
11 receipt.

12 (2) Failure to make service by the method elected by the  
13 plaintiff does not affect the validity of the service.

14 Sec. 7. Section 25-506.01, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 25-506.01 (1) Unless the plaintiff has elected certified  
17 mail service, ~~by certified mail~~, the summons shall be served by the  
18 sheriff of the county where service is made, by a person authorized  
19 by section 25-507 or otherwise authorized by law, or by a person,  
20 corporation, partnership, or limited liability company not a party  
21 to the action specially appointed by the court for that purpose.

22 (2) ~~Service by certified mail~~ Certified mail service  
23 shall be made by plaintiff or plaintiff's attorney.

24 Sec. 8. Section 25-507.01, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           25-507.01 (1) Within twenty days after the date of issue,  
2 the person serving the summons, other than by certified mail  
3 service, shall make proof of service to the court stating the time,  
4 place, including the address if applicable, name of the person with  
5 whom the summons was left, and method of service, or return the  
6 unserved summons to the court with a statement of the reason for  
7 the failure to serve.

8           (2) When service is by certified mail service, the  
9 plaintiff or plaintiff's attorney shall file proof of service  
10 within ten days after return of the signed receipt.

11           (3) Failure to make proof of service or delay in doing so  
12 does not affect the validity of the service.

13           Sec. 9. Section 25-1144, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           25-1144 The application ~~must~~ for a new trial shall be  
16 by motion, upon written grounds, filed at the time of making  
17 the motion. It shall be sufficient, however, in assigning the  
18 grounds of the motion to assign the same in the language of the  
19 statute and without further or other particularity. The causes  
20 enumerated in subdivisions (2), (3), and (7) of section 25-1142,  
21 ~~subdivisions (2), (3) and (7), of this code must~~ shall be sustained  
22 by affidavits showing their truth~~,~~ and may be controverted by  
23 affidavits.

24           Sec. 10. Section 25-1628, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   25-1628 (1) At least once each calendar year, the officer  
2 having charge of the election records shall furnish to the jury  
3 commissioner a complete list of the names, dates of birth, and  
4 addresses of all registered electors nineteen years of age or  
5 older in the county. The Department of Motor Vehicles shall  
6 make available to each jury commissioner each December a list in  
7 magnetic, optical, digital, or other electronic format mutually  
8 agreed to by the jury commissioner and the department containing  
9 the names, dates of birth, and addresses of all licensed motor  
10 vehicle operators and state identification card holders nineteen  
11 years of age or older in the county. The jury commissioner may  
12 request such a list of licensed motor vehicle operators and state  
13 identification card holders from the county treasurer if the county  
14 treasurer has an automated procedure for developing such lists. If  
15 a jury commissioner requests similar lists at other times from the  
16 department, the cost of processing such lists shall be paid by the  
17 county which the requesting jury commissioner serves.

18                   (2) Upon receipt of both lists described in subsection  
19 (1) of this section, the jury commissioner shall combine the  
20 separate lists and attempt to reduce duplication to the best  
21 of his or her ability to produce a master list. In counties  
22 having a population of three thousand inhabitants or more, the  
23 jury commissioner shall produce a master list at least once each  
24 calendar year. In counties having a population of less than three  
25 thousand inhabitants, the jury commissioner shall produce a master

1 list at least once every two calendar years.

2 (3) The proposed juror list shall be derived by selecting  
3 from the master list the name of the person whose numerical order  
4 on such list corresponds with the key number and each successive  
5 tenth name thereafter. The jury commissioner shall certify that  
6 the proposed juror list has been made in accordance with sections  
7 25-1625 to 25-1637.

8 (4) Any duplication of names on a master list shall not  
9 be grounds for quashing any panel pursuant to section 25-1637 or  
10 for the disqualification of any juror.

11 Sec. 11. Section 25-1708, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 25-1708 Where it is not otherwise provided by this and  
14 other statutes, costs shall be allowed of course to the plaintiff,  
15 except as waived or released in writing by the plaintiff, upon a  
16 voluntary payment to the plaintiff after the action is filed but  
17 before judgment, or upon a judgment in his favor, favor of the  
18 plaintiff, in actions for the recovery of money only, or for the  
19 recovery of specific real or personal property.

20 Sec. 12. The parties to a civil action may, as part of  
21 a settlement of the action, agree to the payment of costs of the  
22 action.

23 Sec. 13. Section 25-1801, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 25-1801 Any person, partnership, limited liability

1 company, association, or corporation in this state having a  
2 claim which amounts to ~~two~~ four thousand dollars or less against  
3 any person, partnership, limited liability company, association,  
4 or corporation doing business in this state for (1) services  
5 rendered, (2) labor done, (3) material furnished, (4) overcharges  
6 made and collected, (5) lost or damaged personal property, (6)  
7 damage resulting from delay in transmission or transportation, (7)  
8 livestock killed or injured in transit, or (8) charges covering  
9 articles and service affecting the life and well-being of the  
10 debtor which are adjudged by the court to be necessaries of life  
11 may present the same to such person, partnership, limited liability  
12 company, association, or corporation, or to any agent thereof,  
13 for payment in any county where suit may be instituted for the  
14 collection of the same. If, at the expiration of ninety days after  
15 the presentation of such claim, the same has not been paid or  
16 satisfied, he, she, or it may institute suit thereon in the proper  
17 court. If payment is made to the plaintiff by or on behalf of  
18 the defendant after the filing of the suit but before judgment is  
19 taken, except as otherwise agreed in writing by the plaintiff, the  
20 plaintiff shall be entitled to receive the costs of suit whether  
21 by voluntary payment or judgment. If he, she, or it establishes  
22 the claim and secures judgment thereon, he, she, or it shall be  
23 entitled to recover the full amount of such judgment and all costs  
24 of suit thereon, and, in addition thereto, interest on the amount  
25 of the claim at the rate of six percent per annum from the date

1 of presentation thereof, and, if he, she, or it has an attorney  
2 employed in the case, an amount for attorney's fees as provided  
3 in this section. If the cause is taken to an appellate court  
4 and plaintiff shall recover judgment thereon, the appellate court  
5 shall tax as costs in the action, to be paid to the plaintiff,  
6 an additional amount for attorney's fees in such appellate court  
7 as provided in this section, except that if the party in interest  
8 fails to recover a judgment in excess of the amount that may  
9 have been tendered by any person, partnership, limited liability  
10 company, association, or corporation liable under this section,  
11 then such party in interest shall not recover the attorney's fees  
12 provided by this section. Attorney's fees shall be assessed by the  
13 court in a reasonable amount but shall in no event be less than  
14 ten dollars when the judgment is fifty dollars or less and when  
15 the judgment is over fifty dollars up to ~~two~~ four thousand dollars  
16 the attorney's fee shall be ten dollars plus ten percent of the  
17 judgment in excess of fifty dollars.

18           Sec. 14. Section 25-2405, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           25-2405 Every interpreter, except those certified under  
21 the rules of the Supreme Court and who have taken the prescribed  
22 oath of office, appointed pursuant to sections 25-2401 to 25-2407,  
23 before entering upon his or her duties as such, shall take an oath  
24 that he or she will, to the best of his or her skill and judgment,  
25 make a true interpretation to such person unable to communicate

1 the English language of all the proceedings in a language which  
2 such person understands and that he or she will, in the English  
3 language, repeat the statements of such person to the court, jury,  
4 or officials before whom such proceeding takes place.

5 Sec. 15. Section 25-2721, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 25-2721 (1) Any person having a judgment rendered by a  
8 county court may cause a transcript of the judgment to be filed in  
9 the office of the clerk of the county court in any county of this  
10 state. ~~When the transcript is so filed,~~ request the clerk of such  
11 court ~~may~~ to issue execution on the judgment in the same manner  
12 as execution is issued upon other judgments rendered in the county  
13 court and direct the execution on the judgment to any county in  
14 the state. Such person may request that garnishment, attachment, or  
15 any other aid to execution be directed to any county without the  
16 necessity of filing a transcript of the judgment in the receiving  
17 county, and any hearing or proceeding with regard to such execution  
18 or aid in execution shall be heard in the court in which the  
19 judgment was originally rendered.

20 (2) Any person having a judgment rendered by a county  
21 court may cause a transcript thereof to be filed in the office of  
22 the clerk of the district court in any county of this state. When  
23 the transcript is so filed and entered upon the judgment record,  
24 such judgment shall be a lien on real estate in the county where  
25 the ~~same~~ transcript is filed, and when the ~~same~~ transcript is so

1 filed and entered upon such judgment record, the clerk of such  
2 court may issue execution thereupon in like manner as execution is  
3 issued upon judgments rendered in the district court.

4 Sec. 16. Section 25-3007, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 25-3007 The Civil Legal Services Program is created.  
7 Appropriations to the program and money in the Civil Legal Services  
8 Fund shall be used to provide grants for civil legal services  
9 to eligible low-income persons. The ~~State Court Administrator~~  
10 Commission on Public Advocacy shall distribute grants pursuant to  
11 section 25-3008.

12 Sec. 17. Section 25-3008, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 25-3008 (1) The ~~State Court Administrator~~ Commission  
15 on Public Advocacy shall establish guidelines for submission of  
16 applications for grants to provide civil legal services to eligible  
17 low-income persons. To be eligible for a grant under this section,  
18 a civil legal services provider shall:

19 (a) Be a nonprofit organization chartered in Nebraska;

20 (b) Employ or contract with attorneys admitted to  
21 practice before the Nebraska Supreme Court and the United States  
22 District Courts;

23 (c) Have offices located throughout the state;

24 (d) Have as its principal purpose and mission the  
25 delivery of civil legal services to eligible low-income persons

1 who are residents of Nebraska;

2 (e) Distribute its resources equitably throughout the  
3 state;

4 (f) Be a recipient of financial assistance for the  
5 delivery of civil legal services from the Legal Services  
6 Corporation established by the federal Legal Services Corporation  
7 Act, 42 U.S.C. 2996 et seq.; and

8 (g) Certify that any grant funds received pursuant to  
9 this section will be used to supplement any existing funds used  
10 by the applicant and that such funds will not replace other funds  
11 appropriated or awarded by a state agency to provide civil legal  
12 services to any eligible low-income person.

13 (2) A civil legal services provider seeking a grant  
14 under this section shall file an application with the ~~State Court~~  
15 ~~Administrator~~ commission on forms provided by the ~~administrator.~~  
16 commission. The application shall include a place for the provider  
17 to certify to the ~~administrator~~ commission that it will provide  
18 free civil legal services to eligible low-income persons upon  
19 receipt of a grant under this section.

20 (3) The ~~State Court Administrator~~ commission shall review  
21 the applications and determine which civil legal services providers  
22 shall receive grants under this section and the amount of the  
23 grants. Grant recipients shall use the grant funds to provide free  
24 civil legal services to eligible low-income persons.

25 (4) An independent certified public accountant shall

1 annually audit the books and accounts of each grant recipient. The  
2 grant recipients shall provide the results of such audit to the  
3 ~~State Court Administrator~~ commission.

4 Sec. 18. Section 27-1201, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 27-1201 (1) In any civil action brought by an alleged  
7 victim of an unanticipated outcome of medical care, or in any  
8 arbitration proceeding related to such civil action, any and all  
9 statements, affirmations, gestures, or conduct expressing apology,  
10 sympathy, commiseration, condolence, compassion, or a general sense  
11 of benevolence which are made by a health care provider or an  
12 employee of a health care provider to the alleged victim, a  
13 relative of the alleged victim, or a representative of the alleged  
14 victim and which relate to the discomfort, pain, suffering, injury,  
15 or death of the alleged victim as a result of the unanticipated  
16 outcome of medical care shall be inadmissible as evidence of an  
17 admission of liability or as evidence of an admission against  
18 interest. A statement of fault which is otherwise admissible and  
19 is part of or in addition to any such communication shall be  
20 admissible.

21 (2) For purposes of this section, unless the context  
22 otherwise requires:

23 (a) Health care provider means any person licensed or  
24 certified by the State of Nebraska to deliver health care under  
25 the Uniform ~~Licensing Law~~ Credentialing Act and any health care

1 facility licensed under the Health Care Facility Licensure Act.  
2 Health care provider includes any professional corporation or other  
3 professional entity comprised of such health care providers;

4 (b) Relative means a patient's spouse, parent,  
5 grandparent, stepfather, stepmother, child, grandchild, brother,  
6 sister, stepbrother, stepsister, half brother, half sister, or  
7 spouse's parents. Relative includes persons related to the patient  
8 through adoptive relationships. Relative also includes any person  
9 who has a family-type relationship with the patient;

10 (c) Representative means a legal guardian, attorney,  
11 person designated to make health care decisions on behalf of a  
12 patient under a power of attorney, or any person recognized in law  
13 or custom as a patient's agent; and

14 (d) Unanticipated outcome means the outcome of a medical  
15 treatment or procedure that differs from the expected result.

16 Sec. 19. Section 30-2302, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 30-2302 The intestate share of the surviving spouse is:

19 (1) if there is no surviving issue or parent of the  
20 decedent, the entire intestate estate;

21 (2) if there is no surviving issue but the decedent  
22 is survived by a parent or parents, the first ~~fifty~~ one hundred  
23 thousand dollars, plus one-half of the balance of the intestate  
24 estate;

25 (3) if there are surviving issue all of whom are issue

1 of the surviving spouse also, the first ~~fifty~~ one hundred thousand  
2 dollars, plus one-half of the balance of the intestate estate;

3 (4) if there are surviving issue one or more of whom  
4 are not issue of the surviving spouse, one-half of the intestate  
5 estate.

6 Sec. 20. Section 30-2485, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 30-2485 (a) All claims against a decedent's estate which  
9 arose before the death of the decedent, including claims of  
10 the state and any subdivision thereof, whether due or to become  
11 due, absolute or contingent, liquidated or unliquidated, founded  
12 on contract, tort, or other legal basis, if not barred earlier  
13 by other statute of limitations, are barred against the estate,  
14 the personal representative, and the heirs and devisees of the  
15 decedent, unless presented as follows:

16 (1) Within two months after the date of the first  
17 publication of notice to creditors if notice is given in compliance  
18 with sections 25-520.01 and 30-2483, except that claims barred by  
19 the nonclaim statute at the decedent's domicile before the first  
20 publication for claims in this state are also barred in this state.  
21 If any creditor has a claim against a decedent's estate which arose  
22 before the death of the decedent and which was not presented within  
23 the time allowed by this subdivision, including any creditor who  
24 did not receive notice, such creditor may apply to the court within  
25 sixty days after the expiration date provided in this subdivision

1 for additional time and the court, upon good cause shown, may allow  
2 further time not to exceed thirty days;

3 (2) Within three years after the decedent's death if  
4 notice to creditors has not been given in compliance with sections  
5 25-520.01 and 30-2483.

6 (b) All claims, other than for ~~administration expenses,~~  
7 costs and expenses of administration as defined in section  
8 30-2487, against a decedent's estate which arise at or after  
9 the death of the decedent, including claims of the state and any  
10 subdivision thereof, whether due or to become due, absolute or  
11 contingent, liquidated or unliquidated, founded on contract, tort,  
12 or other legal basis, are barred against the estate, the personal  
13 representative, and the heirs and devisees of the decedent, unless  
14 presented as follows:

15 (1) A claim based on a contract with the personal  
16 representative, within four months after performance by the  
17 personal representative is due;

18 (2) Any other claim, within four months after it arises.

19 (c) Nothing in this section affects or prevents:

20 (1) Any proceeding to enforce any mortgage, pledge, or  
21 other lien upon property of the estate; or

22 (2) To the limits of the insurance protection only, any  
23 proceeding to establish liability of the decedent or the personal  
24 representative for which he or she is protected by liability  
25 insurance.

1           Sec. 21. Section 30-2487, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           30-2487 (a) If the applicable assets of the estate are  
4 insufficient to pay all claims in full, the personal representative  
5 shall make payment in the following order:

6           (1) Costs and expenses of administration;

7           (2) Reasonable funeral expenses;

8           (3) Debts and taxes with preference under federal law;

9           (4) Reasonable and necessary medical and hospital  
10 expenses of the last illness of the decedent, including  
11 compensation of persons attending the decedent and claims filed by  
12 the Department of Health and Human Services pursuant to section  
13 68-919;

14           (5) Debts and taxes with preference under other laws of  
15 this state;

16           (6) All other claims.

17           (b) No preference shall be given in the payment of any  
18 claim over any other claim of the same class, and a claim due and  
19 payable shall not be entitled to a preference over claims not due.

20           (c) For purposes of this section and section 30-2485,  
21 costs and expenses of administration includes expenses incurred in  
22 taking possession or control of estate assets and the management,  
23 protection, and preservation of the estate assets, expenses related  
24 to the sale of estate assets, and expenses in the day-to-day  
25 operation and continuation of business interests for the benefit of

1 the estate.

2           Sec. 22. Section 30-24,125, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           30-24,125 (a) Thirty days after the death of a decedent,  
5 any person indebted to the decedent or having possession of  
6 tangible personal property or an instrument evidencing a debt,  
7 obligation, stock, or chose in action belonging to the decedent  
8 shall make payment of the indebtedness or deliver the tangible  
9 personal property or an instrument evidencing a debt, obligation,  
10 stock, or chose in action to a person claiming to be the successor  
11 of the decedent upon being presented an affidavit made by or on  
12 behalf of the successor stating:

13           (1) the value of all of the personal property in the  
14 decedent's estate, wherever located, less liens and encumbrances,  
15 does not exceed ~~twenty-five~~ fifty thousand dollars;

16           (2) thirty days have elapsed since the death of the  
17 decedent as shown in a certified or authenticated copy of the  
18 decedent's death certificate attached to the affidavit;

19           (3) the claiming successor's relationship to the decedent  
20 or, if there is no relationship, the basis of the successor's claim  
21 to the personal property;

22           (4) the person or persons claiming as successors under  
23 the affidavit swear or affirm that all statements in the affidavit  
24 are true and material and further acknowledge that any false  
25 statement may subject the person or persons to penalties relating

1 to perjury under section 28-915;

2 (5) no application or petition for the appointment of  
3 a personal representative is pending or has been granted in any  
4 jurisdiction; and

5 (6) the claiming successor is entitled to payment or  
6 delivery of the property.

7 (b) A transfer agent of any security shall change the  
8 registered ownership on the books of a corporation from the  
9 decedent to the successor or successors upon the presentation of an  
10 affidavit as provided in subsection (a).

11 (c) In addition to compliance with the requirements of  
12 subsection (a), a person seeking a transfer of a certificate  
13 of title to a motor vehicle, motorboat, all-terrain vehicle, or  
14 minibike shall be required to furnish to the Department of Motor  
15 Vehicles an affidavit showing applicability of this section and  
16 compliance with the requirements of this section to authorize the  
17 department to issue a new certificate of title.

18 Sec. 23. Section 30-24,129, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 30-24,129 (a) Thirty days after the death of a decedent,  
21 any person claiming as successor to the decedent's interest in real  
22 property in this state may file or cause to be filed on his or her  
23 behalf, with the register of deeds office of a county in which the  
24 real property of the decedent that is the subject of the affidavit  
25 is located, an affidavit describing the real property owned by the

1 decedent and the interest of the decedent in the property. The  
2 affidavit shall be signed by all persons claiming as successors or  
3 by parties legally acting on their behalf and shall be prima facie  
4 evidence of the facts stated in the affidavit. The affidavit shall  
5 state:

6 (1) the value of the decedent's interest in all real  
7 property in the decedent's estate located in this state does  
8 not exceed ~~twenty-five~~ thirty thousand dollars. The value of the  
9 decedent's interest shall be determined from the value of the  
10 property as shown on the assessment rolls for the year in which the  
11 decedent died;

12 (2) thirty days have elapsed since the death of the  
13 decedent as shown in a certified or authenticated copy of the  
14 decedent's death certificate attached to the affidavit;

15 (3) no application or petition for the appointment of  
16 a personal representative is pending or has been granted in any  
17 jurisdiction;

18 (4) the claiming successor is entitled to the real  
19 property by reason of the homestead allowance, exempt property  
20 allowance, or family allowance, by intestate succession, or by  
21 devise under the will of the decedent;

22 (5) the claiming successor has made an investigation and  
23 has been unable to determine any subsequent will;

24 (6) no other person has a right to the interest of the  
25 decedent in the described property;

1           (7) the claiming successor's relationship to the decedent  
2 and the value of the entire estate of the decedent; and

3           (8) the person or persons claiming as successors under  
4 the affidavit swear or affirm that all statements in the affidavit  
5 are true and material and further acknowledge that any false  
6 statement may subject the person or persons to penalties relating  
7 to perjury under section 28-915.

8           (b) The recorded affidavit and certified or authenticated  
9 copy of the decedent's death certificate shall also be recorded  
10 by the claiming successor in any other county in this state in  
11 which the real property of the decedent that is the subject of the  
12 affidavit is located.

13           Sec. 24. Section 33-107.03, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           33-107.03 In addition to all other court costs assessed  
16 according to law, a court automation fee of ~~six~~ eight dollars  
17 shall be taxed as costs for each case filed in each county court,  
18 separate juvenile court, and district court, including appeals to  
19 such courts, and for each appeal and original action filed in the  
20 Court of Appeals and the Supreme Court. The fees shall be remitted  
21 to the State Treasurer on forms prescribed by the State Treasurer  
22 within ten days after the end of each month. The State Treasurer  
23 shall credit the fees to the Supreme Court Automation Cash Fund.

24           Sec. 25. Section 33-117, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           33-117 (1) The several sheriffs shall charge and collect  
2 fees at the rates specified in this section. The rates shall be  
3 as follows: (a) Serving a capias with commitment or bail bond and  
4 return, two dollars; (b) serving a search warrant, two dollars; (c)  
5 arresting under a search warrant, two dollars for each person so  
6 arrested; (d) unless otherwise specifically listed in subdivisions  
7 (f) to (s) of this subsection, serving a summons, subpoena, order  
8 of attachment, order of replevin, other order of the court, notice  
9 of motion, other notice, other writ or document, or any combination  
10 thereof, including any accompanying or attached documents, ~~ten~~  
11 twelve dollars for each person served, except that when more than  
12 one person is served at the same time and location in the same  
13 case, the service fee shall be ~~ten~~ twelve dollars for the first  
14 person served at that time and location and ~~two~~ three dollars and  
15 ~~fifty cents~~ for each other person served at that time and location;  
16 (e) making a return of each summons, subpoena, order of attachment,  
17 order of replevin, other order of the court, notice of motion,  
18 other notice, or other writ or document, whether served or not,  
19 ~~five~~ six dollars; (f) taking and filing a replevin bond or other  
20 indemnification to be furnished and approved by the sheriff, one  
21 dollar; (g) making a copy of any process, bond, or other paper not  
22 otherwise provided for in this section, twenty-five cents per page;  
23 (h) traveling each mile actually and necessarily traveled within  
24 or without their several counties in their official duties, three  
25 cents more per mile than the rate provided in section 81-1176,

1 except that the minimum fee shall be fifty cents when the service  
2 is made within one mile of the courthouse, and, as far as is  
3 expedient, all papers in the hands of the sheriff at any one time  
4 shall be served in one or more trips by the most direct route  
5 or routes and only one mileage fee shall be charged for a single  
6 trip, the total mileage cost to be computed as a unit for each  
7 trip and the combined mileage cost of each trip to be prorated  
8 among the persons or parties liable for the payment of same;  
9 (i) levying a writ or a court order and return thereof, ~~fifteen~~  
10 eighteen dollars; (j) summoning a grand jury, not including mileage  
11 to be paid by the county, ten dollars; (k) summoning a petit jury,  
12 not including mileage to be paid by the county, twelve dollars;  
13 (l) summoning a special jury, for each person impaneled, fifty  
14 cents; (m) calling a jury for a trial of a case or cause, fifty  
15 cents; (n) executing a writ of restitution or a writ of assistance  
16 and return, ~~fifteen~~ eighteen dollars; (o) calling an inquest to  
17 appraise lands and tenements levied on by execution, one dollar;  
18 (p) calling an inquest to appraise goods and chattels taken by an  
19 order of attachment or replevin, one dollar; (q) advertising a sale  
20 in a newspaper in addition to the price of printing, one dollar;  
21 (r) advertising in writing for a sale of real or personal property,  
22 five dollars; and (s) making deeds for land sold on execution or  
23 order of sale, five dollars.

24 (2)(a) Except as provided in subdivision (b) of this  
25 subsection, the commission due a sheriff on an execution or order

1 of sale, an order of attachment decree, or a sale of real or  
2 personal property shall be: For each dollar not exceeding four  
3 hundred dollars, six cents; for every dollar above four hundred  
4 dollars and not exceeding one thousand dollars, four cents; and for  
5 every dollar above one thousand dollars, two cents.

6 (b) In real estate foreclosure, when any party to the  
7 original action purchases the property or when no money is received  
8 or disbursed by the sheriff, the commission shall be computed  
9 pursuant to subdivision (a) of this subsection but shall not exceed  
10 two hundred dollars.

11 (3) The sheriff shall, on the first Tuesday in January,  
12 April, July, and October of each year, make a report to the county  
13 board showing (a) the different items of fees, except mileage,  
14 collected or earned, from whom, at what time, and for what service,  
15 (b) the total amount of the fees collected or earned by the officer  
16 since the last report, and (c) the amount collected or earned for  
17 the current year. He or she shall pay all fees earned to the county  
18 treasurer who shall credit the fees to the general fund of the  
19 county.

20 (4) Any future adjustment made to the reimbursement rate  
21 provided in subsection (1) of this section shall be deemed to  
22 apply to all provisions of law which refer to this section for the  
23 computation of mileage.

24 (5) Commencing on and after January 1, 1988, all fees  
25 earned pursuant to this section, except fees for mileage, by any

1 constable who is a salaried employee of the State of Nebraska shall  
2 be remitted to the clerk of the county court. The clerk of the  
3 county court shall pay the same to the General Fund.

4 Sec. 26. Section 34-301, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 34-301 When one or more owners of land, the corners and  
7 boundaries of which are lost, destroyed, or in dispute, desire  
8 to have the same established, they may bring an action in the  
9 district court of the county where such lost, destroyed, or  
10 disputed corners or boundaries, or part thereof, are situated,  
11 against the owners of the other tracts which will be affected by  
12 the determination or establishment thereof, to have such corners or  
13 boundaries ascertained and permanently established. If any public  
14 road is likely to be affected thereby, the proper county shall be  
15 made defendant. Notice of such action shall be given as in other  
16 cases, and if the defendants or any of them are nonresidents of  
17 the state, or unknown, they may be served by publication as is  
18 provided by law. The action shall be a special one, and the only  
19 necessary pleading therein shall be the ~~petition~~ complaint of the  
20 plaintiff describing the land involved, and, so far as may be, the  
21 interest of the respective parties and asking that certain corners  
22 and boundaries therein described, as accurately as may be, shall be  
23 established. Either the plaintiff or defendant may, by proper plea,  
24 put in issue the fact that certain alleged boundaries or corners  
25 are the true ones, or that such have been recognized and acquiesced

1 in by the parties or their grantors for a period of ten consecutive  
2 years, which issue shall be tried before the district court under  
3 its equity jurisdiction without the intervention of a jury, and  
4 appeals from such proceedings shall be had and taken in conformity  
5 with the equity rules.

6 Sec. 27. Section 43-103, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 43-103 Except as otherwise provided in the Nebraska  
9 Indian Child Welfare Act, upon the filing of ~~such~~ a petition for  
10 adoption the court shall fix a time for hearing the same. The  
11 hearing shall be held <sup>7</sup> not less than four weeks nor more than  
12 eight weeks after the filing of such petition unless any party  
13 for good cause shown requests a continuance of the hearing or all  
14 parties agree to a continuance. The court may require notice of the  
15 hearing to be given to the child, if over fourteen years of age,  
16 to the natural parent or parents of the child, and to such other  
17 interested persons as the judge may, in the exercise of discretion,  
18 deem advisable, in the manner provided for service of a summons  
19 in a civil action. If the judge directs notice by publication,  
20 such notice shall be published three successive weeks in a legal  
21 newspaper of general circulation in such county.

22 Sec. 28. Section 43-1314.02, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-1314.02 (1) The court shall provide a caregiver  
25 information form or directions on downloading such form from the

1 Supreme Court Internet web site to the foster parent, preadoptive  
2 parent, guardian, or relative providing care for the child when  
3 giving notice of a court review described in section 43-1314. The  
4 form is to be dated and signed by the caregiver and shall, at a  
5 minimum, request the following:

- 6 (a) The child's name, age, and date of birth;
- 7 (b) The name of the caregiver, his or her telephone  
8 number and address, and whether the caregiver is a foster parent,  
9 preadoptive parent, guardian, or relative;
- 10 (c) How long the child has been in the caregiver's care;
- 11 (d) A current picture of the child;
- 12 (e) The current status of the child's medical, dental,  
13 and general physical condition;
- 14 (f) The current status of the child's emotional  
15 condition;
- 16 (g) The current status of the child's education;
- 17 (h) Whether or not the child is a special education  
18 student and the date of the last individualized educational plan;
- 19 (i) A brief description of the child's social skills and  
20 peer relationships;
- 21 (j) A brief description of the child's special interests  
22 and activities;
- 23 (k) A brief description of the child's reactions before,  
24 during, and after visits;
- 25 (l) Whether or not the child is receiving all necessary

1 services;

2 (m) The date and place of each visit by the caseworker  
3 with the child;

4 (n) A description of the method by which the guardian ad  
5 litem has acquired information about the child; and

6 (o) Whether or not the caregiver can make a permanent  
7 commitment to the child if the child does not return home.

8 (2) A caregiver information form shall be developed by  
9 the Supreme Court. Such form shall be made a part of the record in  
10 each court that reviews the child's foster care proceedings.

11 Sec. 29. Section 43-3001, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 43-3001 (1) Notwithstanding any other provision of law  
14 regarding the confidentiality of records and when not prohibited  
15 by the federal Privacy Act of 1974, as amended, juvenile court  
16 records and any other pertinent information that may be in the  
17 possession of school districts, school personnel, county attorneys,  
18 the Attorney General, law enforcement agencies, child advocacy  
19 centers, state probation personnel, state parole personnel, youth  
20 detention facilities, medical personnel, treatment or placement  
21 programs, the Department of Health and Human Services, the  
22 Department of Correctional Services, the State Foster Care Review  
23 Board, child abuse and neglect investigation teams, child abuse  
24 and neglect treatment teams, or other multidisciplinary teams for  
25 abuse, neglect, or delinquency concerning a child who is in the

1 custody of the state may be shared with individuals and agencies  
2 who have been identified in a court order authorized by this  
3 section.

4 (2) In any judicial proceeding concerning a child who is  
5 currently, or who may become at the conclusion of the proceeding,  
6 a ward of the court or state or under the supervision of the  
7 court, an order may be issued which identifies individuals and  
8 agencies who shall be allowed to receive otherwise confidential  
9 information concerning the child for legitimate and official  
10 purposes. The individuals and agencies who may be identified in  
11 the court order are the child's attorney or guardian ad litem, the  
12 parents' attorney, foster parents, appropriate school personnel,  
13 county attorneys, the Attorney General, authorized court personnel,  
14 law enforcement agencies, state probation personnel, state parole  
15 personnel, youth detention facilities, medical personnel, court  
16 appointed special advocate volunteers, treatment or placement  
17 programs, the Department of Health and Human Services, the Office  
18 of Juvenile Services, the Department of Correctional Services,  
19 the State Foster Care Review Board, child abuse and neglect  
20 investigation teams, child abuse and neglect treatment teams, ~~and~~  
21 other multidisciplinary teams for abuse, neglect, or delinquency,  
22 and other individuals and agencies for which the court specifically  
23 finds, in writing, that it would be in the best interest of the  
24 juvenile to receive such information. Unless the order otherwise  
25 states, the order shall be effective until the child leaves the

1 custody of the state or until a new order is issued.

2 (3) All information acquired by an individual or agency  
3 pursuant to this section shall be confidential and shall not  
4 be disclosed except to other persons who have a legitimate and  
5 official interest in the information and are identified in the  
6 court order issued pursuant to this section with respect to the  
7 child in question. A person who receives such information or  
8 who cooperates in good faith with other individuals and agencies  
9 identified in the appropriate court order by providing information  
10 or records about a child shall be immune from any civil or criminal  
11 liability. The provisions of this section granting immunity from  
12 liability shall not be extended to any person alleged to have  
13 committed an act of child abuse or neglect.

14 (4) In any proceeding under this section relating to a  
15 child of school age, certified copies of school records relating to  
16 attendance and academic progress of such child are admissible in  
17 evidence.

18 (5) Except as provided in subsection (4) of this section,  
19 any person who publicly discloses information received pursuant to  
20 this section shall be guilty of a Class III misdemeanor.

21 Sec. 30. Section 43-3713, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-3713 (1) All government agencies, service providers,  
24 professionals, school districts, school personnel, parents, and  
25 families shall cooperate with all reasonable requests of the court

1 appointed special advocate volunteer. The volunteer shall cooperate  
2 with all government agencies, service providers, professionals,  
3 school districts, school personnel, parents, and families.

4 (2) The volunteer shall be notified in a timely manner  
5 of all hearings, meetings, and any other proceeding concerning  
6 the case to which he or she has been appointed. The court in  
7 its discretion may proceed notwithstanding failure to notify the  
8 volunteer or failure of the volunteer to appear.

9 Sec. 31. Section 81-1429, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 81-1429 ~~(1) Until January 1, 2007, a~~ A Law Enforcement  
12 Improvement Fund fee of two dollars shall be taxed as costs  
13 in each criminal proceeding, including traffic infractions and  
14 misdemeanors, filed in all courts of this state for violations of  
15 state law or city or village ordinances. No such fee shall be  
16 collected in any juvenile court proceeding or when waived under  
17 section 29-2709. Such fee shall be remitted to the State Treasurer  
18 on forms prescribed by the State Treasurer within ten days after  
19 the close of each calendar quarter. The State Treasurer shall  
20 credit the money to the Law Enforcement Improvement Fund.

21 ~~(2) Beginning January 1, 2007, a fee of one dollar shall~~  
22 ~~be taxed as costs in each criminal proceeding, including traffic~~  
23 ~~infractions and misdemeanors, filed in all courts of this state for~~  
24 ~~violations of state law or city or village ordinances. No such fee~~  
25 ~~shall be collected in any juvenile court proceeding or when waived~~

1 under section ~~29-2709~~. Such fee shall be remitted to the State  
2 Treasurer on forms prescribed by the State Treasurer within ten  
3 days after the close of each calendar quarter. The State Treasurer  
4 shall credit the money to the Law Enforcement Improvement Fund.

5 Sec. 32. Section 84-917, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 84-917 (1) Any person aggrieved by a final decision in a  
8 contested case, whether such decision is affirmative or negative in  
9 form, shall be entitled to judicial review under the Administrative  
10 Procedure Act. Nothing in this section shall be deemed to prevent  
11 resort to other means of review, redress, or relief provided by  
12 law.

13 ~~(2)(a)~~ (2)(a)(i) Proceedings for review shall be  
14 instituted by filing a petition in the district court of the county  
15 where the action is taken within thirty days after the service of  
16 the final decision by the agency. All parties of record shall be  
17 made parties to the proceedings for review. If an agency's only  
18 role in a contested case is to act as a neutral factfinding body,  
19 the agency shall not be a party of record. In all other cases, the  
20 agency shall be a party of record. Summons shall be served within  
21 thirty days of the filing of the petition in the manner provided  
22 for service of a summons in section 25-510.02. If the agency whose  
23 decision is appealed from is not a party of record, the petitioner  
24 shall serve a copy of the petition and a request for preparation  
25 of the official record upon the agency within thirty days of the

1 filing of the petition. The court, in its discretion, may permit  
2 other interested persons to intervene.

3 (ii) The filing of a petition for review shall vest in a  
4 responding party of record the right to a cross-appeal against any  
5 other party of record. A respondent shall serve its cross-appeal  
6 within thirty days after being served with the summons and petition  
7 for review.

8 (b) A petition for review shall set forth: (i) The  
9 name and mailing address of the petitioner; (ii) the name and  
10 mailing address of the agency whose action is at issue; (iii)  
11 identification of the final decision at issue together with a  
12 duplicate copy of the final decision; (iv) identification of the  
13 parties in the contested case that led to the final decision; (v)  
14 facts to demonstrate proper venue; (vi) the petitioner's reasons  
15 for believing that relief should be granted; and (vii) a request  
16 for relief, specifying the type and extent of the relief requested.

17 (3) The filing of the petition or the service of summons  
18 upon such agency shall not stay enforcement of a decision. The  
19 agency may order a stay. The court may order a stay after notice  
20 of the application therefor to such agency and to all parties of  
21 record. If the agency has found that its action on an application  
22 for stay or other temporary remedies is justified to protect  
23 against a substantial threat to the public health, safety, or  
24 welfare, the court may not grant relief unless the court finds  
25 that: (a) The applicant is likely to prevail when the court

1 finally disposes of the matter; (b) without relief, the applicant  
2 will suffer irreparable injuries; (c) the grant of relief to  
3 the applicant will not substantially harm other parties to the  
4 proceedings; and (d) the threat to the public health, safety, or  
5 welfare relied on by the agency is not sufficiently serious to  
6 justify the agency's action in the circumstances. The court may  
7 require the party requesting such stay to give bond in such amount  
8 and conditioned as the court may direct.

9 (4) Within thirty days after service of the petition  
10 or within such further time as the court for good cause shown  
11 may allow, the agency shall prepare and transmit to the court a  
12 certified copy of the official record of the proceedings had before  
13 the agency. Such official record shall include: (a) Notice of  
14 all proceedings; (b) any pleadings, motions, requests, preliminary  
15 or intermediate rulings and orders, and similar correspondence to  
16 or from the agency pertaining to the contested case; (c) the  
17 transcribed record of the hearing before the agency, including all  
18 exhibits and evidence introduced during such hearing, a statement  
19 of matters officially noticed by the agency during the proceeding,  
20 and all proffers of proof and objections and rulings thereon;  
21 and (d) the final order appealed from. The agency shall charge  
22 the petitioner with the reasonable direct cost or require the  
23 petitioner to pay the cost for preparing the official record for  
24 transmittal to the court in all cases except when the petitioner is  
25 not required to pay a filing fee. The agency may require payment or

1 bond prior to the transmittal of the record.

2 (5) (a) When the petition instituting proceedings for  
3 review was filed in the district court before July 1, 1989, the  
4 review shall be conducted by the court without a jury on the record  
5 of the agency, and review may not be obtained of any issue that  
6 was not raised before the agency unless such issue involves one of  
7 the grounds for reversal or modification enumerated in subdivision  
8 (6) (a) of this section. When the petition instituting proceedings  
9 for review is filed in the district court on or after July 1, 1989,  
10 the review shall be conducted by the court without a jury de novo  
11 on the record of the agency.

12 (b) (i) If the court determines that the interest of  
13 justice would be served by the resolution of any other issue not  
14 raised before the agency, the court may remand the case to the  
15 agency for further proceedings.

16 (ii) The agency shall affirm, modify, or reverse its  
17 findings and decision in the case by reason of the additional  
18 proceedings and shall file the decision following remand with  
19 the reviewing court. The agency shall serve a copy of the  
20 decision following remand upon all parties to the district court  
21 proceedings. The agency decision following remand shall become  
22 final unless a petition for further review is filed with the  
23 reviewing court within thirty days after the decision following  
24 remand being filed with the district court. The party filing the  
25 petition for further review shall serve a copy of the petition for

1 further review upon all parties to the district court proceeding in  
2 accordance with the rules of pleading in civil actions promulgated  
3 by the Supreme Court pursuant to section 25-801.01 within thirty  
4 days after the petition for further review is filed. Within thirty  
5 days after service of the petition for further review or within  
6 such further time as the court for good cause shown may allow, the  
7 agency shall prepare and transmit to the court a certified copy of  
8 the official record of the additional proceedings had before the  
9 agency following remand.

10 (6) (a) When the petition instituting proceedings for  
11 review was filed in the district court before July 1, 1989, the  
12 court may affirm the decision of the agency or remand the case for  
13 further proceedings, or it may reverse or modify the decision if  
14 the substantial rights of the petitioner may have been prejudiced  
15 because the agency decision is:

16 (i) In violation of constitutional provisions;

17 (ii) In excess of the statutory authority or jurisdiction  
18 of the agency;

19 (iii) Made upon unlawful procedure;

20 (iv) Affected by other error of law;

21 (v) Unsupported by competent, material, and substantial  
22 evidence in view of the entire record as made on review; or

23 (vi) Arbitrary or capricious.

24 (b) When the petition instituting proceedings for review  
25 is filed in the district court on or after July 1, 1989, the court

1 may affirm, reverse, or modify the decision of the agency or remand  
2 the case for further proceedings.

3 (7) The review provided by this section shall not be  
4 available in any case where other provisions of law prescribe the  
5 method of appeal.

6 Sec. 33. Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13,  
7 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31,  
8 32, and 35 of this act become operative three calendar months after  
9 the adjournment of this legislative session. The other sections of  
10 this act become operative on their effective date.

11 Sec. 34. Original sections 24-301.02, 24-517, and 33-117,  
12 Reissue Revised Statutes of Nebraska, are repealed.

13 Sec. 35. Original sections 21-2601, 23-1205, 25-505.01,  
14 25-506.01, 25-507.01, 25-1144, 25-1628, 25-1708, 25-1801, 25-2405,  
15 25-2721, 25-3007, 25-3008, 27-1201, 30-2302, 30-2485, 30-2487,  
16 30-24,125, 30-24,129, 33-107.03, 34-301, 43-103, 43-1314.02,  
17 43-3001, 43-3713, 81-1429, and 84-917, Reissue Revised Statutes of  
18 Nebraska, are repealed.

19 Sec. 36. Since an emergency exists, this act takes effect  
20 when passed and approved according to law.